

Greggory C. Brandt (Bar No. 189487)
 Jennifer P. Tang (Bar No. 280321)
WENDEL, ROSEN, BLACK & DEAN LLP
 1111 Broadway, 24th Floor
 Oakland, California 94607-4036
 Telephone: (510) 834-6600
 Fax: (510) 834-1928
 Email: gbrandt@wendel.com

Attorneys for Plaintiff GreenCycle Paint, Inc., a
 California corporation

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

GREENCYCLE PAINT, INC., a California
 corporation,

Plaintiff,

vs.

PAINTCARE, INC., a Delaware corporation,
 CLEAN HARBORS ENVIRONMENTAL
 SERVICES, INC., a Massachusetts
 corporation,
 STERICYCLE ENVIRONMENTAL
 SOLUTIONS, INC., a Delaware corporation,
 and DOES 1-10,

Defendants.

Case No. 3:15-cv-04059-MEJ

**GREENCYCLE PAINT, INC.'S REQUEST
 FOR JUDICIAL NOTICE**

Date: September 29, 2016
 Time: 10:00 a.m.
 Crtrm.: B (15th Floor)
 Judge: Hon. Maria-Elena James

Action Filed: August 4, 2015
 Removed: September 4, 2015
 FAC Filed: May 6, 2016
 Trial Date: None Set

GreenCycle Paint, Inc. ("GreenCycle") hereby requests that the court take judicial notice
 of the following documents, for the reasons set forth herein, submitted in support of GreenCycle's
 opposition to the motions to dismiss filed by the defendants in this action.

Exhibit A: September 25, 2013 Stipulation and Order in the matter captioned In Re:
 Visions Recycling, Inc. dba Visions Paint Recycling, Inc. ("2013 Order").

Exhibit B: Administrative Enforcement Order Case Summary, a Formal Enforcement
 Summary, a September 17, 2013 Notice to Defendant issued to Visions Recycling, Inc. dba
 Visions Paint Recycling, Inc. ("Visions") by the County of Sacramento Environmental

Wendel, Rosen, Black & Dean LLP
 1111 Broadway, 24th Floor
 Oakland, California 94607-4036

1 Management Division and an associated AEO Case Chronology, AEO Checklist and Penalty
2 Calculation Matrix.

3 **Exhibit C:** May 12, 2015 Amended Stipulation and Order in the matter captioned In Re:
4 Visions Recycling, Inc. dba Visions Paint Recycling Inc. ("2015 Order").

5 **Exhibit D:** Administrative Enforcement Order (Date Case Closed: 7-1-15), a Formal
6 Enforcement Summary, an April 22, 2015 Notice to Defendant issued to Visions by the County of
7 Sacramento Environmental Management Department, an associated AEO Case Chronology, AEO
8 Checklist and Penalty Calculation Matrix and Visions' written response all pertaining to the 2015
9 Order.

10 Exhibits A-D are true and correct copies of records maintained by the County of
11 Sacramento Environmental Management Division ("County") and available from the County's
12 website (www.emd.saccounty.net). The court can take judicial notice of Exhibits A-D pursuant to
13 Federal Rule of Civil Procedure 201 as documents that can be accurately and readily determined
14 from the public records maintained by the Sacramento County EMD. *Lee v. City of Los Angeles*,
15 250 F.3d 668, 689 (9th Cir. 2001) (holding that a court can take judicial notice of matters of public
16 record in its consideration of a motion to dismiss); see also *Morrow v. City of San Diego*, 2012
17 U.S. Dist. LEXIS 3791, *2 (S.D. Cal. Jan. 11, 2012) (taking judicial notice of an Administrative
18 Enforcement Order and associated notices issued by the City of San Diego).

19
20 DATED: August 10, 2016

WENDEL, ROSEN, BLACK & DEAN LLP

21
22 By:



23 Gregory C. Brandt
24 Attorneys for Plaintiff GreenCycle Paint, Inc., a
25 California corporation
26
27
28

EXHIBIT A

EXHIBIT A

ATTACHMENT 2

**County of Sacramento
Environmental Management Department
Environmental Compliance Division
10590 Armstrong Ave., Suite A
Mather, CA 95655
Telephone: (916) 875-8550
Facsimile: (916) 875-8513**

**In Re: VISIONS RECYCLING, INC. DBA) STIPULATION AND ORDER
VISIONS PAINT RECYCLING, INC.)
4481 KILZER AVENUE) [California Health and Safety Code
MCCLELLAN, CA 95652) Section 25404.1.1]
)
) Case File No. 13-FA0018491**

1. The Sacramento County Environmental Management Department, Environmental Compliance Division ("EMD"), and **VISIONS RECYCLING, INC. DBA VISIONS PAINT RECYCLING, INC.** ("Respondent") enter into this Stipulation and Order as follows:

2.1. A dispute exists regarding the Administrative Enforcement Order issued by EMD on September 17, 2013, a copy of which is attached hereto as Attachment 1 and hereby incorporated by reference. This Administrative Enforcement Order found Respondent in violation of the following:

2.2. Failure to update the Business Activities form in the Hazardous Material Business Plan (HMBP) (19 California Code of Regulations (CCR) Section 2729.2, Health & Safety Code (H&SC) Section 25505(a)&(b)).

ATTACHMENT 2

1 2.3. Failure to complete and submit accurate Hazardous Materials
2 Inventory forms in the HMBP (19 CCR Section 2729.2 & .4, H&SC Section
3 25505(a)&(b)). **Repeat Violation**
4

5 2.4. Failure to update the Site Map in the HMBP to identify the
6 hazardous waste accumulation areas (19 CCR Section 2729.2, H&SC Section
7 25505(a)&(b)). **Class II Violation**
8

9 2.5. Failure to update the emergency contact information in the
10 Consolidated Contingency Plan (19 CCR Section 2731, H&SC Sections
11 25505(a)&(b)). **Class II Violation**
12

13 2.6. Failure to properly segregate incompatible hazardous materials
14 (hydrochloric acid and caustic soda solution) stored together on a pallet (19 CCR
15 Section 2732). **Repeat Violation**
16

17 2.7. Failure to properly close drums and totes of latex paint products
18 stored throughout the facility (19 CCR Section 2732). **Repeat Violation**
19

20 2.8. Failure to implement an adequate hazardous communication and
21 hazardous waste employee training program (19 CCR Section 2732, 22 CCR
22 Section 66265.16(a-d), H&SC Section 25504(c)). **Repeat Violation**
23
24
25
26
27
28

ATTACHMENT 2

1 2.9. Failure to label drums, totes and tanks containing latex paint
2 products throughout the facility and receiving yard (19 CCR 66261.7, 22 CCR
3 66261.2(f)(1), H&SC Section 25124(b)(3)(a)). **Repeat Violation**
4

5 2.10. Failure to manage containers, tanks and totes properly when empty
6 (22 CCR Section 66261.7).
7

8 2.11. Failure to label containers of hazardous waste with a completed
9 hazardous waste label (22 CCR Sections 66262.31-34). **Repeat Violation**
10

11 2.12. Failure to label drums and totes containing paint sludge as
12 "Excluded Recyclable Material" (H&SC Section 25143.9). **Repeat Violation**
13

14 2.13. Failure to maintain adequate aisle space in the hazardous waste
15 accumulation area (22 CCR Section 66265.35). **Class II Violation**
16

17 2.14. Failure to perform weekly inspections of the hazardous waste
18 accumulation area (22 CCR Section 66265.174).
19

20 2.15. Failure to perform a hazardous waste determination on the rocks
21 used as filter media and coated with paint sludge prior to disposing to the soil (22
22 CCR Section 66262.11). **Repeat Violation**
23

24 2.16. Hazardous waste accumulated on-site past the accumulation time
25 frame (22 CCR Section 66262.34(a)). **Repeat Violation**
26

27 3. Jurisdiction exists pursuant to H&SC Section 25404.1.1 et seq.
28

ATTACHMENT 2

1 4. The parties wish to resolve this matter and to ensure prompt action
2 to achieve the Schedule of Compliance below.

3 5. Respondent waives any right to appeal and right to hearing in this
4 matter.
5

6 6. This Stipulation and Order shall constitute full settlement of the
7 violations alleged in paragraphs 2.2 through 2.16 so long as Respondent fully
8 complies with its terms. The execution of this Stipulation and Order does not
9 limit EMD from taking appropriate enforcement action for other or future
10 violations not addressed in the Administrative Enforcement Order.
11

12 7. By signing this Stipulation and Order, Respondent admits the
13 violations as stated in paragraphs 2.2 through 2.16 and agrees to comply with
14 H&SC Section 25404.1.1 and pay penalties as described below for the violations.
15
16

SCHEDULE OF COMPLIANCE

17
18 8.1. Respondent agrees to pay EMD a penalty of \$14,575.00 no later
19 than October 2, 2013 payable by cashier's check, credit card, or money order.
20 Respondent's payment shall be made payable to: County of Sacramento,
21 Environmental Management Department. Payment may be mailed or delivered
22 to: 10590 Armstrong Ave., Suite C, Mather, CA 95655. Time is of the essence.
23
24
25
26
27
28

ATTACHMENT 2

1 8.2. On condition that Respondent fully complies with paragraph 8.1 on
2 or before the date agreed upon, EMD agrees to accept the amount stated in 8.1
3 in full settlement of the administrative penalties imposed in the Administrative
4 Enforcement Order.
5

6 8.3. In the event that Respondent fails to fully comply with paragraph 8.1,
7 EMD retains the right to collect all penalties imposed in the Administrative
8 Enforcement Order as well as the right to assess additional penalties.
9

10
11 **ADDITIONAL PROVISIONS**


12 9.1. Parties Bound: This Stipulation and Order shall apply to and be
13 binding upon Respondent and its officers, directors, agents, receivers, trustees,
14 employees, contractors, consultants, successors, and assignees, including but
15 not limited to individuals, partners, and subsidiary and parent corporations, and
16 upon EMD and any successor agency that may have responsibility for and
17 jurisdiction over the subject matter of this Stipulation and Order.
18

19
20 9.2. Representation: The parties acknowledge that in the course of
21 negotiating this Stipulation and Order that the parties have had an opportunity to
22 consult with legal counsel.

23 9.3. Effective Date: The effective date of this Stipulation and Order shall
24 be the date that it is signed by EMD.
25
26
27
28

ATTACHMENT 2

1 9.4. Integration: This Stipulation and Order constitutes the entire
 2 agreement between the parties concerning the matters contained herein and
 3 may not be amended, supplemented, or modified except by written agreement of
 4 both parties.
 5

6
 7
 8  Signature of Authorized Representative

President
 Title

9
 10 Jerry Noel
 Printed Name

9/23/13
 Date

11
 12
 13 Dated: 9/25/13

County of Sacramento
 Environmental Management Department

14
 15 
 16 Ryan Bailey,
 17 Supervising Environmental Specialist IV
 18 Environmental Compliance Division

19 W:\Data\ENFORCEMENT\CUPA ENFORCEMENT\VISIONS RECYCLING\VISIONS ATTACHMENT 2 - STIP AND ORDER.doc

20 For Administrative Use Only:

21 5604(BP) 50% 5605(UST) _____ 5613(WG) 50% 5616(CalARP) _____
 22
 23
 24
 25
 26
 27
 28

EXHIBIT B

EXHIBIT B

Document Type: Enforcement/AEO

ADMINISTRATIVE ENFORCEMENT ORDER

Case Summary for

FA# 18491

Business Name: Visions Paint Recycling, Inc.

Owner: Visions Recycling, Inc.

Address: 4481 Kilmer Ave, McClellan, CA

Type of Enforcement: HM/HW Repeat Violations



Date AEO Issued: 9-17-13 Date Case Closed: 9-25-13

AEO Penalty: 58,300 Settlement Offer: 14,575

Penalty Paid: 15,575

Enforcement Summary Form Submitted: ☒ Yes

Comments: Facility has had numerous repeat violations during every inspection & complaint response over the last 9 years. The facility did submit Return to Compliance documentation to close the violations, however; due to the history of non-compliance EMD determined enforcement action was warranted. Business agreed to take the settlement offer & paid penalty. Case Closed.

	FORMAL ENFORCEMENT SUMMARY	
CUPA	DATE SUBMITTED	
I. FACILITY IDENTIFICATION		
BUSINESS NAME (Same as FACILITY NAME or DBA-Doing Business As) VISIONS RECYCLING, INC. DBA VISIONS PAINT RECYCLING, INC.		
BUSINESS SITE ADDRESS 4481 KILZER AVENUE		
BUSINESS SITE CITY MCCLELLAN	104 CA	ZIP CODE 95652
VIOLATION SUMMARY Type of Violation (check boxes that apply)		
<input checked="" type="checkbox"/> HAZARDOUS MATERIALS <input type="checkbox"/> Cal-ARP REGULATED SUBSTANCES <input type="checkbox"/> UNDERGROUND STORAGE TANKS (USTs) <input type="checkbox"/> ABOVE GROUND PETROLEUM STORAGE <input type="checkbox"/> HAZARDOUS WASTE	4 4a 5 8 9	<input checked="" type="checkbox"/> HAZARDOUS WASTE TREATMENT <input type="checkbox"/> RCRA LARGE QUANTITY GENERATOR <input type="checkbox"/> HOUSEHOLD HAZARDOUS WASTE <input type="checkbox"/> LOCAL REQUIREMENTS
		11 14a 14b 15
Narrative description of the violations observed		
Inspector conducted a routine Hazardous Material and Hazardous Waste inspection at Respondent's facility on May 17, 2013. Several violations observed and cited in the Notice to Comply were repeat violations from previous inspections. Due to the severity and recalcitrant nature of the violations EMD determined enforcement action was required.		
FORMAL ENFORCEMENT ACTION		
Type of Enforcement Action (Check one box)	Date of Initial Enforcement Action	Date of Final Disposition
<input checked="" type="checkbox"/> ADMIN <input type="checkbox"/> CIVIL <input type="checkbox"/> CRIMINAL	9/17/13	9/25/13
	Cash Fines/Penalties Imposed	Total Costs Recovered
	\$14,575	\$14,575
	Value of SEP Penalties Imposed	
	-0-	
DESCRIPTION OF FINAL DISPOSITION		
NARRATIVE FORMAT - (i.e. describe probation conditions, final sentencing conditions, consent order compliance schedule, etc) Respondent admitted the violations found in the Administrative Enforcement Order and agreed to pay a settlement penalty of \$14,575. Case Closed.		

COUNTY OF SACRAMENTO
ENVIRONMENTAL MANAGEMENT DEPARTMENT
10590 Armstrong Avenue
Mather, CA 95655

Receipt of Payment

Receipt ID: BP0249647

Account ID: AR0027943

VISIONS RECYCLING, INC

Invoice No: IN0341525

4481 KILZER AVENUE
MCCLELLAN CA 95652

Received Date: 9/24/2013

Amount: \$14,575.00

Payment Type: CHECK

Check No: 6960160

Payee: GUY CHERRY

Received by: EE0009402

Environmental Management
Department
Val F. Siebal, Director



Divisions
Environmental Compliance
Environmental Health

County of Sacramento

September 17, 2013

NOTICE TO DEFENDANT:

**VISIONS RECYCLING, INC. DBA
VISIONS PAINT RECYCLING, INC.
4481 KILZER AVENUE
MC CLELLAN, CA 95652**

VISIONS RECYCLING, INC.

AGENT FOR SERVICE OF PROCESS:

**BRUCE M. SMITH
6939 SUNRISE BOULEVARD, SUITE 120
CITRUS HEIGHTS, CA 95610**

CERTIFIED MAIL NO:

7012 0470 0002 4377 3623

CERTIFIED MAIL NO:

7012 0470 0002 4377 3852

YOU ARE BEING SUED IN AN ADMINISTRATIVE ACTION BY:

THE SACRAMENTO COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT (EMD)

**ADMINISTRATIVE ENFORCEMENT ORDER RE: VIOLATION FOR FAILURE TO COMPLY WITH
CHAPTERS 6.5 AND 6.95 OF THE CALIFORNIA HEALTH AND SAFETY CODE (H&SC) AND TITLES 19
AND 22 OF THE CALIFORNIA CODE OF REGULATIONS (CCR)**

**NOTICE TO
DEFENDANT**

You have 15 calendar days after the attached Administrative Enforcement Order (Attachment 1) is served (received) to file a written response with the Sacramento County Environmental Management Department, Environmental Compliance Division (EMD). A letter or telephone call will not protect you. You must either:

- 1) Complete the Stipulation and Order (Attachment 2), or
- 2) Complete the Notice of Defense (Attachment 3).

If you do not file a written response on time, you may lose the case by default, a Superior Court clerk's judgment may be entered against you and your wages, money and property may be taken without further warning. Your written response must be mailed or delivered to EMD, Environmental Compliance Division, 10590 Armstrong Ave., Suite A, Mather, CA 95655.

**YOU ARE IN
VIOLATION**

On May 17, 2013 an EMD representative conducted a routine Hazardous Materials and Hazardous Waste Generator inspection at Visions Recycling, Inc. located at 4481 Kilzer Ave., McClellan, CA 95652. A Notice to Comply (NTC) was issued following the inspection citing multiple violations of Chapters 6.5 and 6.95 of the California Health and Safety Code (H&SC), many of which were repeat violations from previous inspections. You were given 14 days to correct violations identified as Priority Corrective Actions (PCA) and 30 days to submit documentation that the remaining cited violations had been corrected.

Although Return to Compliance documentation was submitted, due to the severity and recalcitrant nature of the violations EMD has determined additional action is required.

As a result of the inspection, EMD found **VISIONS RECYCLING, INC. DBA VISIONS PAINT RECYCLING, INC.** in violation of the following:

1. Failure to update the Business Activities form in the Hazardous Material Business Plan (HMBP) (19 California Code of Regulations (CCR) Section 2729.2, H&SC Section 25505(a)&(b)).
2. Failure to complete and submit accurate Hazardous Materials Inventory forms in the HMBP (19 CCR Section 2729.2 & .4, H&SC Section 25505(a)&(b)). **Repeat Violation**
3. Failure to update the Site Map in the HMBP to identify the hazardous waste accumulation areas (19 CCR Section 2729.2, H&SC Section 25505(a)&(b)). **Class II Violation**
4. Failure to update the emergency contact information in the Consolidated Contingency Plan (19 CCR Section 2731, H&SC Sections 25505(a)&(b)). **Class II Violation**
5. Failure to properly segregate incompatible hazardous materials (hydrochloric acid and caustic soda solution) stored together on a pallet (19 CCR Section 2732). **Repeat Violation**
6. Failure to properly close drums and totes of latex paint products stored throughout the facility (19 CCR Section 2732). **Repeat Violation**
7. Failure to implement an adequate hazardous communication and hazardous waste employee training program (19 CCR Section 2732, 22 CCR Section 66265.16(a-d), H&SC Section 25504(c)). **Repeat Violation**
8. Failure to label drums, totes and tanks containing latex paint products throughout the facility and receiving yard (19 CCR 66261.7, 22 CCR 66261.2(f)(1), H&SC Section 25124(b)(3)(a)). **Repeat Violation**
9. Failure to manage containers, tanks and totes properly when empty (22 CCR Section 66261.7).
10. Failure to label containers of hazardous waste with a completed hazardous waste label (22 CCR Sections 66262.31-34). **Repeat Violation**
11. Failure to label drums and totes containing paint sludge as "Excluded Recyclable Material" (H&SC Section 25143.9). **Repeat Violation**
12. Failure to maintain adequate aisle space in the hazardous waste accumulation area (22 CCR Section 66265.35). **Class II Violation**
13. Failure to perform weekly inspections of the hazardous waste accumulation area (22 CCR Section 66265.174).
- 14. Failure to perform a hazardous waste determination on the rocks used as filter media and coated with paint sludge prior to disposing to the soil (22 CCR Section 66262.11). **Repeat Violation**
15. Hazardous waste accumulated on-site past the accumulation time frame (22 CCR Section 66262.34(a)). **Repeat Violation**

Due to the above violations, H&SC Section 25404.1.1 authorizes immediate enforcement action, including the imposition of penalties.

Visions Recycling, Inc.
September 17, 2013
Page 3 of 4

**ADMINISTRATIVE
ENFORCEMENT
ORDER**

For violations #1 - 8, H&SC Section 25514.5 establishes a maximum penalty of \$5,000.00 per day for each day the violation occurs. For violations #9 - 15, H&SC Section 25189.2 establishes a maximum penalty of \$25,000.00 per day for each day the violation occurs.

The attached **Administrative Enforcement Order** (Attachment 1) is issued pursuant to Section 25404.1.1 of the H&SC and imposes a penalty of \$58,300.00. This Administrative Enforcement Order is based on your site specific violations and will be effective within 15 days of receipt UNLESS you take one of the following actions:

OPTION 1: Agree to a settlement offer; or

OPTION 2: Appeal the stated violations by filing a **Notice of Defense** (Attachment 3).

OPTION 1

EMD would agree to settle this matter as set forth in the attached **Stipulation and Order** (Attachment 2). Through this settlement offer, EMD has chosen to accept a penalty in an amount less than the maximum provided by law.

**AGREE TO A
SETTLEMENT
OFFER**

If you choose this option, you must complete the following within 15 days of the receipt of the attached Administrative Enforcement Order (Attachment 1):

1. **Sign** the attached **Stipulation and Order** (Attachment 2);
2. **Pay** a settlement amount of \$14,575.00; and
3. **Return** all of the above to our office by the due date as specified in the Stipulation and Order.

Choosing this option and completing the above requirements will resolve the violations and penalties cited in the Administrative Enforcement Order.

OPTION 2

**REQUEST A
HEARING FOR THE
STATED
VIOLATIONS BY
FILING A NOTICE
OF DEFENSE**

You may appeal the stated violations by completing the following:

1. Submit a written request for an appeal hearing postmarked within 15 days after receipt of the attached Administrative Enforcement Order (Attachment 1). This must be done by completing the attached **Notice of Defense** (Attachment 3) and include a statement of the reason(s) why you believe you should not be subject to these penalties.
2. Be available to participate in an appeal hearing before the Hearing Authority.

**IMPORTANT
NOTES**

If an appeal is filed, the Settlement Offer of \$14,575.00 as listed under Option 1 will be rescinded and the Department will seek the full Administrative Penalty of \$58,300.00 as shown in the attached **Administrative Enforcement Order** (Attachment 1).

Visions Recycling, Inc.
September 17, 2013
Page 4 of 4

QUESTIONS

You are encouraged to meet with representatives of EMD to discuss your case prior to going before the Hearing Authority. Please contact Heather Tanner at (916) 875-8577 in order to schedule an appointment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ryan Bailey', followed by a horizontal line.

Ryan Bailey, Supervising Environmental Specialist IV
Environmental Compliance Division

RB:ht

Attachments: Administrative Enforcement Order (Attachment 1)
Stipulation and Order (Attachment 2)
Notice of Defense (Attachment 3)

W:\Data\ENFORCEMENT\CUPA ENFORCEMENT\VISIONS RECYCLING\VISIONS AEO LETTER.doc

ATTACHMENT 1

1 **County of Sacramento**
 2 **Environmental Management Department**
 3 **Environmental Compliance Division**
 4 **10590 Armstrong Ave., Suite A**
 5 **Mather, CA 95655**
 6 **Telephone: (916) 875-8550**
 7 **Facsimile: (916) 875-8513**

8 In Re: **VISIONS RECYCLING, INC. DBA**) **ADMINISTRATIVE**
 9 **VISIONS PAINT RECYCLING, INC.**) **ENFORCEMENT ORDER**
 10 **4481 KILZER AVENUE**)
 11 **MCCLELLAN, CA 95652**) **[California Health and Safety Code**
 12) **Section 25404.1.1]**
 13) **Case File No. 13-FA018491**

14 INTRODUCTION

15 1.1. Parties. The Sacramento County Environmental Management
 16 Department, Environmental Compliance Division ("EMD"), the Certified Unified
 17 Program Agency in the County of Sacramento, issues this Administrative
 18 Enforcement Order to **VISIONS RECYCLING, INC. DBA VISIONS PAINT**
 19 **RECYLCING, INC.** ("Respondent").

20 1.2. Site. Respondent maintains reportable quantities of hazardous
 21 materials and generates hazardous waste pursuant to Chapters 6.5 and 6.95 of
 22 the California Health and Safety Code (H&SC) at the following site: **VISIONS**
 23 **PAINT RECYCLING, INC.**, 4481 Kilzer Avenue, McClellan, CA 95652.

24 1.3. Jurisdiction. H&SC Section 25404.1.1 authorizes EMD to order
 25 action necessary to correct violations and assess a penalty when EMD
 26 determines that any person has violated specified provisions of the H&SC or any
 27 permit, rule, regulation, standard, or requirement issued or adopted pursuant
 28 thereto.

DETERMINATION OF VIOLATION AND PENALTIES

2.1. On May 17, 2013 a representative from EMD conducted a Hazardous Materials and Hazardous Waste Generator inspection at Respondents facility. A Notice to Comply (NTC) was issued following the inspection citing multiple violations of Chapters 6.5 and 6.95 of the H&SC, many of which were repeat violations from previous inspections. Respondent was given 14 days to correct violations identified as Priority Corrective Actions and 30 days to submit documentation that the remaining cited violations had been corrected. Although Return to Compliance documentation was received for the cited violations, due to the severity and recalcitrant nature of the violations EMD has determined that additional action is required.

As a result of the inspection, EMD found Respondent in violation of the following:

2.2. Failure to update the Business Activities form in the Hazardous Material Business Plan (HMBP) (19 California Code of Regulations (CCR) Section 2729.2, H&SC Section 25505(a)&(b)).

2.3. Failure to complete and submit accurate Hazardous Materials Inventory forms in the HMBP (19 CCR Section 2729.2 & .4, H&SC Section 25505(a)&(b)). **Repeat Violation**

2.4. Failure to update the Site Map in the HMBP to identify the hazardous waste accumulation areas (19 CCR Section 2729.2, H&SC Section 25505(a)&(b)). **Class II Violation**

ATTACHMENT 1

1 2.5. Failure to update the emergency contact information in the
2 Consolidated Contingency Plan (19 CCR Section 2731, H&SC Sections
3 25505(a)&(b)). **Class II Violation**
4

5 2.6. Failure to properly segregate incompatible hazardous materials
6 (hydrochloric acid and caustic soda solution) stored together on a pallet (19 CCR
7 Section 2732). **Repeat Violation**
8

9 2.7. Failure to properly close drums and totes of latex paint products
10 stored throughout the facility (19 CCR Section 2732). **Repeat Violation**
11

12 2.8. Failure to implement an adequate hazardous communication and
13 hazardous waste employee training program (19 CCR Section 2732, 22 CCR
14 Section 66265.16(a-d), H&SC Section 25504(c)). **Repeat Violation**
15

16 2.9. Failure to label drums, totes and tanks containing latex paint
17 products throughout the facility and receiving yard (19 CCR 66261.7, 22 CCR
18 66261.2(f)(1), H&SC Section 25124(b)(3)(a)). **Repeat Violation**
19

20 2.10. Failure to manage containers, tanks and totes properly when empty
21 (22 CCR Section 66261.7).

22 2.11. Failure to label containers of hazardous waste with a completed
23 hazardous waste label (22 CCR Sections 66262.31-34). **Repeat Violation**
24

25 2.12. Failure to label drums and totes containing paint sludge as
26 "Excluded Recyclable Material" (H&SC Section 25143.9). **Repeat Violation**
27
28

ATTACHMENT 1

1 2.13. Failure to maintain adequate aisle space in the hazardous waste
2 accumulation area (22 CCR Section 66265.35). ***Class II Violation***

3
4 2.14. Failure to perform weekly inspections of the hazardous waste
5 accumulation area (22 CCR Section 66265.174).

6
7 2.15. Failure to perform a hazardous waste determination on the rocks
8 used as filter media and coated with paint sludge prior to disposing to the soil (22
9 CCR Section 66262.11). ***Repeat Violation***

10 2.16. Hazardous waste accumulated on-site past the accumulation time
11 frame (22 CCR Section 66262.34(a)). ***Repeat Violation***

12
13 2.17. For violations numbered 2.2 – 2.9, pursuant to H&SC Section
14 25514.5, Respondent is subject to an administrative penalty of up to \$5,000.00
15 per day per each violation. For violations numbered 2.10 – 2.16, pursuant to
16 H&SC Section 25189.2, Respondent is subject to an administrative penalty of up
17 to \$25,000.00 per day per each violation.

18
19 2.18. Based upon the foregoing violations, pursuant to H&SC Section
20 25404.1.1, EMD imposes an administrative penalty on Respondent in the amount
21 of \$58,300.00. Payment is due within 15 days from the effective date of this
22 Administrative Enforcement Order and is payable by cashier's check, credit card,
23 or money order. Respondent's payment shall be made payable to: County of
24 Sacramento, Environmental Management Department. Payment shall be mailed
25 or delivered to 10590 Armstrong Ave., Suite C, Mather, CA 95655.

1 2.19. The administrative penalty assessed pursuant to this Administrative
2 Enforcement Order is in addition to any other remedies, both civil and criminal,
3 provided by State Law or County Code.
4

5 **RIGHT TO A HEARING**

6 3.1. Respondent may, within 15 days after service of this Administrative
7 Enforcement Order, request a hearing pursuant to H&SC Section 25404.1.1 by
8 completing and filing with EMD the enclosed Notice of Defense. A Notice of
9 Defense shall be deemed filed within the 15 day period if it is postmarked within
10 that period.
11

12 3.2. If Respondent requests a hearing, Respondent may select as a
13 hearing officer either an Administrative Law Judge of the Office of Administrative
14 Hearings of the Department of General Services of the State of California or a
15 hearing officer designated by EMD. If a Notice of Defense is filed, but no hearing
16 officer is selected, EMD may select the hearing officer.
17

18 3.3. If Respondent requests a hearing, a hearing decision will be issued
19 by an Administrative Law Judge or by the Hearing Officer designated by EMD.
20 Pursuant to Government Code Section 11440.10 and Section 6.60.030 of the
21 Sacramento County Code, the decision of the Administrative Law Judge or
22 Hearing Officer will be accepted as final by EMD following the hearing.
23
24
25
26
27
28

ATTACHMENT 1

3.4. If the Notice of Defense is not filed within the specified time limit, this
Administrative Enforcement Order shall become final.

Dated: 9-16-13

County of Sacramento
Environmental Management Department



Ryan Bailey,
Supervising Environmental Specialist IV
Environmental Compliance Division

W:\Data\ENFORCEMENT\CUPA ENFORCEMENT\VISIONS RECYCLING\VISIONS ATTACHMENT 1 - ENFORCEMENT ORDER.doc

ATTACHMENT 2

1 **County of Sacramento**
 2 **Environmental Management Department**
 3 **Environmental Compliance Division**
 4 **10590 Armstrong Ave., Suite A**
 5 **Mather, CA 95655**
 6 **Telephone: (916) 875-8550**
 7 **Facsimile: (916) 875-8513**

8 In Re: **VISIONS RECYCLING, INC. DBA**) **STIPULATION AND ORDER**
 9 **VISIONS PAINT RECYCLING, INC.**)
 10 **4481 KILZER AVENUE**) **[California Health and Safety Code**
 11 **MCCLELLAN, CA 95652**) **Section 25404.1.1]**
 12)
 13) **Case File No. 13-FA0018491**

14 1. The Sacramento County Environmental Management Department,
 15 Environmental Compliance Division ("EMD"), and **VISIONS RECYCLING, INC.**
 16 **DBA VISIONS PAINT RECYCLING, INC.** ("Respondent") enter into this
 17 Stipulation and Order as follows:

18 2.1. A dispute exists regarding the Administrative Enforcement Order
 19 issued by EMD on September 17, 2013, a copy of which is attached hereto as
 20 Attachment 1 and hereby incorporated by reference. This Administrative
 21 Enforcement Order found Respondent in violation of the following:

22 2.2. Failure to update the Business Activities form in the Hazardous
 23 Material Business Plan (HMBP) (19 California Code of Regulations (CCR)
 24 Section 2729.2, Health & Safety Code (H&SC) Section 25505(a)&(b)).
 25
 26
 27
 28

ATTACHMENT 2

1 2.3. Failure to complete and submit accurate Hazardous Materials
2 Inventory forms in the HMBP (19 CCR Section 2729.2 & .4, H&SC Section
3 25505(a)&(b)). **Repeat Violation**
4

5 2.4. Failure to update the Site Map in the HMBP to identify the
6 hazardous waste accumulation areas (19 CCR Section 2729.2, H&SC Section
7 25505(a)&(b)). **Class II Violation**
8

9 2.5. Failure to update the emergency contact information in the
10 Consolidated Contingency Plan (19 CCR Section 2731, H&SC Sections
11 25505(a)&(b)). **Class II Violation**
12

13 2.6. Failure to properly segregate incompatible hazardous materials
14 (hydrochloric acid and caustic soda solution) stored together on a pallet (19 CCR
15 Section 2732). **Repeat Violation**
16

17 2.7. Failure to properly close drums and totes of latex paint products
18 stored throughout the facility (19 CCR Section 2732). **Repeat Violation**
19

20 2.8. Failure to implement an adequate hazardous communication and
21 hazardous waste employee training program (19 CCR Section 2732, 22 CCR
22 Section 66265.16(a-d), H&SC Section 25504(c)). **Repeat Violation**
23
24
25
26
27
28

ATTACHMENT 2

1 2.9. Failure to label drums, totes and tanks containing latex paint
2 products throughout the facility and receiving yard (19 CCR 66261.7, 22 CCR
3 66261.2(f)(1), H&SC Section 25124(b)(3)(a)). **Repeat Violation**

5 2.10. Failure to manage containers, tanks and totes properly when empty
6 (22 CCR Section 66261.7).

8 2.11. Failure to label containers of hazardous waste with a completed
9 hazardous waste label (22 CCR Sections 66262.31-34). **Repeat Violation**

10 2.12. Failure to label drums and totes containing paint sludge as
11 "Excluded Recyclable Material" (H&SC Section 25143.9). **Repeat Violation**

13 2.13. Failure to maintain adequate aisle space in the hazardous waste
14 accumulation area (22 CCR Section 66265.35). **Class II Violation**

16 2.14. Failure to perform weekly inspections of the hazardous waste
17 accumulation area (22 CCR Section 66265.174).

18 2.15. Failure to perform a hazardous waste determination on the rocks
19 used as filter media and coated with paint sludge prior to disposing to the soil (22
20 CCR Section 66262.11). **Repeat Violation**

22 2.16. Hazardous waste accumulated on-site past the accumulation time
23 frame (22 CCR Section 66262.34(a)). **Repeat Violation**

24 3. Jurisdiction exists pursuant to H&SC Section 25404.1.1 et seq.
25
26
27
28

ATTACHMENT 2

1 8.2. On condition that Respondent fully complies with paragraph 8.1 on
2 or before the date agreed upon, EMD agrees to accept the amount stated in 8.1
3 in full settlement of the administrative penalties imposed in the Administrative
4 Enforcement Order.
5

6 8.3. In the event that Respondent fails to fully comply with paragraph 8.1,
7 EMD retains the right to collect all penalties imposed in the Administrative
8 Enforcement Order as well as the right to assess additional penalties.
9

10
11 **ADDITIONAL PROVISIONS**

12 9.1. **Parties Bound:** This Stipulation and Order shall apply to and be
13 binding upon Respondent and its officers, directors, agents, receivers, trustees,
14 employees, contractors, consultants, successors, and assignees, including but
15 not limited to individuals, partners, and subsidiary and parent corporations, and
16 upon EMD and any successor agency that may have responsibility for and
17 jurisdiction over the subject matter of this Stipulation and Order.
18

19 9.2. **Representation:** The parties acknowledge that in the course of
20 negotiating this Stipulation and Order that the parties have had an opportunity to
21 consult with legal counsel.
22

23 9.3. **Effective Date:** The effective date of this Stipulation and Order shall
24 be the date that it is signed by EMD.
25
26
27
28

ATTACHMENT 2

9.4. Integration: This Stipulation and Order constitutes the entire agreement between the parties concerning the matters contained herein and may not be amended, supplemented, or modified except by written agreement of both parties.

Signature of Authorized Representative

Title

Printed Name

Date

Dated: _____

County of Sacramento
Environmental Management Department

Ryan Bailey,
Supervising Environmental Specialist IV
Environmental Compliance Division

W:\Data\ENFORCEMENT\CUPA ENFORCEMENT\VISIONS RECYCLING\VISIONS ATTACHMENT 2 - STIP AND ORDER.doc

For Administrative Use Only:

5604(BP) 50% 5605(UST) _____ 5613(WG) 50% 5616(CalARP) _____

NOTICE OF DEFENSE

**COUNTY OF SACRAMENTO
ENVIRONMENTAL MANAGEMENT DEPARTMENT
ENVIRONMENTAL COMPLIANCE DIVISION**

**In Re: VISIONS RECYCLING, INC. DBA) NOTICE OF DEFENSE
VISIONS PAINT RECYCLING, INC.)
4481 KILZER AVENUE) [California Health and Safety Code
MCCLELLAN, CA 95652) Section 25404.1.1(d)]
)
) Case File No. 13-FA0018491**

I, the undersigned Respondent, acknowledge receipt of the Administrative Enforcement Order (Enforcement Order) and Notice of Defense issued by the County of Sacramento Environmental Management Department, Environmental Compliance Division (EMD) dated September 17, 2013. I request a hearing to permit me to present my defense to the alleged violations contained in the Enforcement Order. I select the following as a Hearing Officer (check one):

- ☐ A Hearing Officer designated by the County.
- ☐ An Administrative Law Judge of the State Office of Administrative Hearings.

I have attached a written statement to this Notice of Defense providing the reason(s) why I believe I should not be subject to the penalties imposed in the Enforcement Order.

I understand that I will be notified of the hearing date by EMD once the case has been scheduled for review before the Hearing Officer selected above.

Signature of Respondent

Print Name

Date _____

Street Address

City, State, Zip

Phone #

Page ____ of ____

AEO CHECKLIST

FACILITY INFORMATION	Facility Name:	Visions Recycling, Inc.	Back Fees:	\$ -0-
	FA#	0018491	Initial Penalty	\$ 58,300 -
	Permit Issued:		Settlement Offer	\$ 14,575 -
	Last BP/Renewal			
LEGAL NAME VERIFICATION	Business Name in (County/City) Bus Lic Database		FBN (Fictitious Business Name)	
	If Corp or Inc. check kepler.ss.ca.gov/list.html		Address of Agent for Service of Process	Bruce M. Smith 6939 Sunrise Blvd., Suite 120 Citrus Heights, CA 95610
	Owner Name (Sole Proprietor)		Company website address:	http://www.visionsrecycling.com
HMP TRACKING	60-day Mail Out Date:		Event #	
	30-day Extension Mail Out Date:		Return Receipt Date:	
	30-day Due Date:		<input type="checkbox"/> Address Verification <input type="checkbox"/> RQ's of HM/HW	
INSPECTION HISTORY	Initial Inspection Date:		Specialist:	
	RTC Documents Due:		Date RTC Rec'd:	
	Class I Violations:			
	Re-Inspection Date:		Specialist:	
	RTC Documents Due:		Date RTC Rec'd:	
Class I Violations:				
Repeat Violations:				
# OF DAYS IN VIOLATION	HMP	# of days	Other Violations:	# of Days
	From: _____ to _____		From: _____ to _____	
COMMENTS				
ATTACHMENTS	<input checked="" type="checkbox"/> Inspection Report	<input type="checkbox"/> Re-Inspection Report	<input checked="" type="checkbox"/> Photos	<input checked="" type="checkbox"/> HAPP Form
	Previous Enforcement: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> FTP Letter Date: _____	<input type="checkbox"/> FRC Letter Date: _____	<input type="checkbox"/> Accounting History

DAYS IN VIOLATION

Inspection Violations: One day only

BP Violation: One day only

Date of Penalty Calculation: 9/11/13

ADMINISTRATIVE ENFORCEMENT ORDERVISIONS RECYCLING INC. FA#0018491
4481 Kilzer Ave., McClellan, CA 95652**PENALTY CALCULATION MATRIX**

#	Alleged Violation(s)	Initial Penalty (1)	Multi Day? Y/N	Penalty x 2% (1) x (.02) (2)	# of days (-1) (3)	Multi-day penalty (2)x(3) (4)	Total Penalty (1)+(4) (5)	Adjusted? Y/N	New Total (6)
1	HM104 – Failure to complete/submit accurate hazardous material inventory forms for materials stored in reportable quantities. Repeat Violation (Min/Mod)	400	N					Y 25%	400
2	HM106 – Failure to update site map to accurately identify the hazardous materials/waste storage locations. Class II (Min/Mod)	400	N					N	400
3	HM 107/W145 – Failure to update the consolidated contingency plan. Class II (Min/Mod)	400	N					N	400
4	HM 109/W148 - 153 – Failure to implement and adequately train employees on haz com. Repeat Violation (Mod/Mod)	10,500	N					Y 25%	13,125
5	HM 111 – Incompatibles stored on the same pallet. Repeat Violation (Mod/Mod)	600	N					Y 25%	750
6	HM 111 – Haz mat drums left open. Repeat Violation (Mod/Mod)	600	N					Y 25%	750
7	HM 114 – Multiple containers of latex paint products observed throughout the facility without a label. Repeat Violation (Mod/Mod)	600	N					Y 25%	750
8	W109 – Failure to label with a completed hazardous waste label. Repeat Violation (Min/Mod)	6,000	N					Y 25%	7,500

9.	W113 – Failure to maintain aisle space in the haz waste accumulation storage area. Class II (Min/Mod)	6,000	N					N	6,000
10.	W126/W127 – Failure to preform proper haz waste determination. Repeat Vioaltion (Mod/Mod)	10,500	N					Y 25%	13,125
11.	W135 – Waste kept on site longer than 90-days. Repeat Violation (Mod/Min)	6,000						Y 25%	7,500
12.	W142 – Failure to properly label paint sludge accumulation drums/totes. Repeat Vioaltion (Min/Mod)	6,000						Y 25%	7,500
								TOTAL	\$58,300

SETTLEMENT PENALTY OFFER

#	Alleged Violation(s)	Proposed Settlement Penalty (1)	Multi Day? Y/N	Penalty x 2% (1) x (.02) (2)	# of days (-1) (3)	Multi-day penalty (2)x(3) (4)	Total Penalty (1)+(4) (5)	Adjusted? Y/N	New Total (6)
1	HM104 – Facility failed to complete/submit accurate hazardous material inventory forms for materials stored in reportable quantities. Repeat Violation (Min/Mod)								
2	HM106 – Facility failed to update the site map to accurately identify the hazardous materials/waste storage locations. Class II (Min/Mod)								
3	HM 107/W145 – Failure to update the consolidated contingency plan. Class II (Min/Mod)								
4	HM 109/W148 - 153 – Failure to implement and adequately train employees on haz com. Repeat Violaton (Mod/Mod)								
5	HM 111 – Incompatibles stored on the same pallet. Repeat Violation (Mod/Mod)								

6.	HM 111 – Haz mat drums left open. Repeat Violation (Mod/Mod)								
7.	HM 114 – Multiple containers of latex paint products observed throughout the facility without a label. Repeat Violation (Mod/Mod)								
8.	W109 – Failure to label with a completed hazardous waste label. Repeat Violation (Min/Mod)								
9.	W113 – Failure to maintain aisle space in the haz waste accumulation storage area. Class II (Min/Mod)								
10.	W126/W127 – Failure to perform proper haz waste determination. Repeat Violation (Mod/Mod)								
11.	W135 – Waste kept on site longer than 90-days. Repeat Violation (Mod/Min)								
12.	W142 – Failure to properly label paint sludge accumulation drums/totes. Repeat Violation (Min/Mod)								
						TOTAL			14,575

Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Tuesday, September 10, 2013. Please refer to Processing Times for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	VISIONS RECYCLING, INC.
Entity Number:	C2332941
Date Filed:	02/22/2001
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	4481 WINTERS STREET
Entity City, State, Zip:	MCCLELLAN CA 95652
Agent for Service of Process:	BRUCE M. SMITH
Agent Address:	6939 SUNRISE BLVD. SUITE 120
Agent City, State, Zip:	CITRUS HEIGHTS CA 95610

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code section 2114 for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to Name Availability.
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to Information Requests.
- For help with searching an entity name, refer to Search Tips.
- For descriptions of the various fields and status types, refer to Field Descriptions and Status Definitions.

[Privacy Statement](#) | [Free Document Readers](#)

Copyright © 2013 California Secretary of State

EXHIBIT C

EXHIBIT C

ATTACHMENT 2

**County of Sacramento
Environmental Management Department
Environmental Compliance Division
10590 Armstrong Ave., Suite A
Mather, CA 95655
Telephone: (916) 875-8550
Facsimile: (916) 875-8513**

**In Re: VISIONS RECYCLING, INC. DBA) AMENDED STIPULATION AND
VISIONS PAINT RECYCLING, INC.) ORDER
ATTN: JERRY NOEL) [California Health and Safety Code
4481 KILZER AVENUE) Section 25404.1.1]
MCCLELLAN, CA 95652)
) Case File No. 15-FA0018491**

1. The Sacramento County Environmental Management Department, Environmental Compliance Division ("EMD"), and **VISIONS RECYCLING, INC. DBA VISIONS PAINT RECYCLING, INC.** ("Respondent") enter into this Amended Stipulation and Order as follows:

2.1. A dispute exists regarding the Administrative Enforcement Order issued by EMD on April 22, 2015, a copy of which is attached hereto as Attachment 1 and hereby incorporated by reference. This Administrative Enforcement Order found Respondent in violation of the following:

2.2. Failure to ensure incompatible materials are not stored together (a 55-gallon drum of aluminum sulfate solution (strong acid) observed stored on a pallet adjacent to 55-gallon drums of sodium hydroxide solution (strong caustic)) (19 California Code of Regulations (CCR) Section 2729.1). **Repeat Violation**

ATTACHMENT 2

1 2.3. Failure to complete and submit hazardous material inventory
2 information for all reportable hazardous materials and/or waste on site (19 CCR
3 Section 2729.2(a)(2)). **Repeat Violation**
4

5 2.4. Failure to label hazardous waste containers with a fully completed
6 hazardous waste label and failure to label or re-label any unlabeled, mislabeled,
7 or not adequately labeled hazardous materials within 10 days of discovery (22
8 CCR Sections 66262.34(f) and 66261.2(f)(1)). **Repeat Violation**
9

10 2.5. Failure to ensure all employees are thoroughly familiar with proper
11 waste handling and emergency procedures relevant to their responsibilities (22
12 CCR Section 66265.16). **Repeat Violation**
13

14 2.6. Failure to file an exception report with the California Department of
15 Toxic Substances Control (DTSC) when the destination facility failed to provide a
16 signed copy of the manifest within 35 days (22 CCR Section 66262.42).
17

18 2.7. Failure to dispose of hazardous waste within 90 days of the
19 accumulation start date (22 CCR Section 66262.34(a)). **Repeat Violation**
20

21 2.8. Failure to maintain aisle space to allow the unobstructed movement
22 of personnel, fire protection equipment, spill control equipment, and
23 decontamination equipment to any area of facility operation in an emergency (22
24 CCR Section 66265.35). **Repeat Violation**
25

26 3. Jurisdiction exists pursuant to California Health and Safety Code
27 (H&SC) Section 25404.1.1 et seq.
28

ATTACHMENT 2

4. The parties wish to resolve this matter and to ensure prompt action to achieve the Schedule of Compliance below.

5. Respondent waives any right to appeal and right to hearing in this matter.

6. This Amended Stipulation and Order shall constitute full settlement of the violations alleged in paragraphs 2.2 through 2.8 so long as Respondent fully complies with its terms. The execution of this Amended Stipulation and Order does not limit EMD from taking appropriate enforcement action for other or future violations not addressed in the Administrative Enforcement Order.

7. By signing this Amended Stipulation and Order, Respondent admits the violations as stated in paragraphs 2.2 through 2.8 and agrees to comply with H&SC Section 25404.1.1 and pay penalties as described below for the violations.

SCHEDULE OF COMPLIANCE

8.1. EMD agrees to give Respondent a credit of **\$5,000.00** toward the penalty of **\$10,937.00** if Respondent agrees to the following terms:

8.1.a. Penalty of **\$5,937.00** is according to the following payment schedule:

June 1, 2015 \$2,968.50

July 1, 2015	\$2,968.50
--------------	------------

Payment is payable by cash, check, credit card, or money order. Respondent's payment shall be made payable to: County of Sacramento, Environmental Management Department. Payment may be mailed or delivered to: 10590

ATTACHMENT 2

1 Armstrong Ave., Suite C, Mather, CA 95655. Time is of the essence.

2 8.1.b. Respondent must submit a training plan identifying the
3 company providing the training, the title of the training, and the cost of the
4 training to EMD by June 12, 2015. EMD will review and approve the proposed
5 training plan within 3 days.
6

7 8.1.c. Respondent must attend and complete the approved training
8 by September 11, 2015. Training documentation must be provided to EMD to
9 demonstrate completion.
10

11 8.1.d. Failure to complete the training by September 11, 2015 will
12 result in the forfeiture of the \$5,000.00 credit which will be due and payable to
13 EMD by September 11, 2015.
14

15 8.2. On condition that Respondent fully complies with paragraph 8.1
16 through 8.1.c. on or before the date agreed upon, EMD agrees to accept the
17 amount stated in 8.1 in full settlement of the administrative penalties imposed in
18 the Administrative Enforcement Order.
19

20 8.3. In the event that Respondent fails to fully comply with paragraph 8.1,
21 through 8.1.c. EMD retains the right to collect all penalties imposed in the
22 Administrative Enforcement Order as well as the right to assess additional
23 penalties.
24

25 8.4. In the event Respondent fails to make payments as specified in the
26 payment plan outlined in paragraph 8.1, it is in violation of this Amended
27 Stipulation and Order. If the violation is not corrected within 10 days after written
28

ATTACHMENT 2

1 notice by EMD, the entire outstanding balance of the penalty amount in the
2 Enforcement Order will become due and payable. In that event, EMD may
3 enforce the penalty as specified in the Enforcement Order and obtain a clerk's
4 judgment in the amount of the outstanding balance pursuant to H&SC Section
5 25404.1.3. A copy of this stipulated order accompanied by a certified copy of the
6 enforcement order shall constitute a sufficient showing to warrant issuance of the
7 judgment. This stipulated order shall constitute a final administrative order,
8 pursuant to Sections (d) or (f) of the H&SC for which the time for filing a petition
9 for judicial review, as described in Section 11523 of the California Government
10 Code has elapsed.
11
12

ADDITIONAL PROVISIONS

13
14
15 9.1. Parties Bound: This Amended Stipulation and Order shall apply to
16 and be binding upon Respondent and its officers, directors, agents, receivers,
17 trustees, employees, contractors, consultants, successors, and assignees,
18 including but not limited to individuals, partners, and subsidiary and parent
19 corporations, and upon EMD and any successor agency that may have
20 responsibility for and jurisdiction over the subject matter of this Amended
21 Stipulation and Order.
22

23 9.2. Representation: The parties acknowledge that in the course of
24 negotiating this Amended Stipulation and Order that the parties have had an
25 opportunity to consult with legal counsel.
26
27
28

ATTACHMENT 2

9.3. Effective Date: The effective date of this Amended Stipulation and Order shall be the date that it is signed by EMD.

9.4. Integration: This Amended Stipulation and Order constitutes the entire agreement between the parties concerning the matters contained herein and may not be amended, supplemented, or modified except by written agreement of both parties.


Signature of Authorized Representative

President
Title

Jerry Noel
Printed Name

5-12-15
Date

Dated: 5-12-15

County of Sacramento
Environmental Management Department


Robert Duncan,
Supervising Environmental Specialist IV
Environmental Compliance Division

W:\Data\ENFORCEMENT\CUPA ENFORCEMENT\VISIONS PAINT\VISIONS ATTACHMENT 2 - STIP AND ORDER.doc(file path)

For Administrative Use Only:

5604(BP) 50% 5605(UST) 5613(WG) 50% 5616(CalARP)

EXHIBIT D

EXHIBIT D

Document Type: Enforcement/AEO

ADMINISTRATIVE ENFORCEMENT ORDER

Case Summary for

FA# 18491

Business Name: Visions Paint Recycling

Owner: Jerry Noel

Address: 4481 Kilger Ave., McClellan

Type of Enforcement: repeat HM/HW violations

Date AEO Issued: 4/22/15 Date Case Closed: 7/1/15

AEO Penalty: 43,750 Settlement Offer: \$5,937 +

Penalty Paid: 5,937 \$5,000 training SEP

Enforcement Summary Form Submitted: ☒ Yes

Comments: Facility paid penalty & submitted
documentation to Ryan Arty that
3 employees attended RCRA training
at NES. Case Closed



CALIFORNIA
CUPA
FORUM

4/25/14

DATE SUBMITTED

BUSINESS NAME (Same as **FACILITY NAME** or **DBA-Doing Business As**)
Visions Paint Inc., dba Visions Paint Recycling, Inc.

4481 Kilzer Avenue

BUSINESS SITE CITY

104

CA

ZIP CODE

105

McClellan

95652

Type of Violation (check boxes that apply)

4

4a

5

8

9

11

14a

14b

15

1. Failure to ensure incompatible materials are not stored together.
2. Failure to complete and submit hazardous material inventory information for all reportable hazardous materials/waste stored on site.
3. Failure to label containers of hazardous waste with a completed hazardous waste label.
4. Failure to ensure all employees are thoroughly familiar with proper waste handling and emergency procedures.
5. Failure to file an exception report with DTSC.
6. Failure to dispose of hazardous waste within 90 days.
7. Failure to maintain aisle space.

**Type of Enforcement Action
(Check one box)**

Date of Initial Enforcement Action

Date of Final Disposition

Cash
Fines/Penalties
Imposed

Total Costs
RecoveredValue of SEP
Penalties Imposed☒ ADMIN ☐ CIVIL ☐ CRIMINAL

4/22/15

7/1/15

\$5,937.00

\$5,000.00

NARRATIVE FORMAT - (I.e. describe probation conditions, final sentencing conditions, consent order compliance schedule, etc)

AEO settlement meeting was held May 12, 2015. After discussing the violations, the owner signed the Stipulation and Order, paid the settlement offer of \$5,937.00 and agreed to a \$5,000.00 SEP which included sending three of his employees to RCRA training. No further action required at this time.

Environmental Management
Department

Val F. Siebal, Director



County of Sacramento

April 22, 2015

**VISIONS RECYCLING, INC.
DBA VISIONS PAINT RECYCLING, INC.
ATTN: JERRY NOEL
4481 KILZER AVENUE
MCCLELLAN, CA 95652**

**VISIONS RECYCLING, INC.
AGENT FOR SERVICE OF PROCESS:
JENNIFER NOEL
6501 TUSCANY COURT
RIO LINDA, CA 95673**

**YOU ARE BEING SUED IN AN ADMINISTRATIVE ACTION BY:
THE SACRAMENTO COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT (EMD)**

**CERTIFIED MAIL NO:
7014 1200 0001 4081 4519**

**CERTIFIED MAIL NO:
7014 1200 0001 4081 4526**

**ADMINISTRATIVE ENFORCEMENT ORDER RE: VIOLATION FOR FAILURE TO COMPLY WITH
CHAPTERS 6.5 AND 6.95 OF THE CALIFORNIA HEALTH AND SAFETY CODE (H&SC) AND TITLES 19
AND 22 OF THE CALIFORNIA CODE OF REGULATIONS (CCR)**

**NOTICE TO
DEFENDANT**

You have 15 calendar days after the attached Administrative Enforcement Order (Attachment 1) is served (received) to file a written response with the Sacramento County Environmental Management Department, Environmental Compliance Division (EMD). A letter or telephone call will not protect you. You must either:

- 1) Complete the Stipulation and Order (Attachment 2), or
- 2) Complete the Notice of Defense (Attachment 3).

If you do not file a written response on time, you may lose the case by default, a Superior Court clerk's judgment may be entered against you and your wages, money and property may be taken without further warning. Your written response must be mailed or delivered to EMD, Environmental Compliance Division, 10590 Armstrong Ave., Suite A, Mather, CA 95655.

**YOU ARE IN
VIOLATION**

On January 23, 2015 representatives from EMD conducted a Hazardous Materials Business Plan and Hazardous Waste inspection at VISIONS PAINT RECYCLING, INC., located at 4481 Kilzer Avenue, McClellan, CA. This inspection occurred due to the facility receiving an Administrative Enforcement Order (Order) dated September 17, 2013. As a result of this Order the facility was placed in a More Frequent Inspection (MFI) status. During the January 23, 2015 inspection multiple violations were observed to be repeat Priority Corrective Action violations from the previous inspection dated May 17, 2013. A Notice to Comply (NTC) was issued on February 5, 2015 citing multiple repeat violations of the California Code of Regulations (CCR) and the California Health & Safety Code (H&SC). At this time all violations have been closed, however due to the recalcitrant and serious nature of some of the violations EMD has determined that enforcement action is warranted.

As a result, EMD finds **VISIONS RECYCLING, INC. DBA VISIONS PAINT RECYCLING, INC.** in violation of the following:

1. Failure to ensure incompatible materials are not stored together (a 55-gallon drum of aluminum sulfate solution (strong acid) observed stored on a pallet adjacent to 55-gallon drums of sodium hydroxide solution (strong caustic)) (19 CCR Section 2729.1). **Repeat Violation**
2. Failure to complete and submit hazardous material inventory information for all reportable hazardous materials and/or waste on site (19 CCR Section 2729.2(a)(2)). **Repeat Violation**
3. Failure to label hazardous waste accumulation containers with a fully completed hazardous waste label and failure to re-label any unlabeled, mislabeled, or not adequately labeled hazardous materials within 10 days of discovery (22 CCR Sections 66262.34(f) and 66261.2(f)(1)). **Repeat Violation**
4. Failure to ensure all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities (22 CCR Section 66265.16). **Repeat Violation**
5. Failure to file an exception report with the California Department of Toxic Substances Control (DTSC) when the destination facility failed to provide a signed copy of the manifest within 35 days (22 CCR Section 66262.42).
6. Failure to dispose of hazardous waste within 90 days of the accumulation start date (22 CCR Section 66262.34(a)). **Repeat Violation**
7. Failure to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency (22 CCR Section 66265.35). **Repeat Violation**

Due to the above violations, H&SC Section 25404.1.1 authorizes immediate enforcement action, including the imposition of penalties.

ADMINISTRATIVE ENFORCEMENT ORDER

For violations #1 and #2, H&SC Section 25515(b) establishes a maximum penalty of **\$5,000.00** per day for each day the violations occur. For violations #3 through #7, H&SC Section 25189.2 establishes a maximum penalty of **\$25,000.00** per day for each day the violations occur. The attached **Administrative Enforcement Order** (Attachment 1) is issued pursuant to Section 25404.1.1 of the H&SC and imposes a penalty of **\$43,750.00**. This Administrative Enforcement Order is based on your site specific violations and will be effective within 15 days of receipt **UNLESS** you take one of the following actions:

OPTION 1: Agree to a settlement offer; or

OPTION 2: Appeal the stated violations by filing a **Notice of Defense** (Attachment 3).

OPTION 1 AGREE TO A SETTLEMENT OFFER

EMD would agree to settle this matter as set forth in the attached **Stipulation and Order** (Attachment 2). Through this settlement offer, EMD has chosen to accept a penalty in an amount less than the maximum provided by law.

If you choose this option, you must complete the following within 15 days of the receipt of the attached Administrative Enforcement Order (Attachment 1):

Visions Recycling, Inc.
April 22, 2015
Page 3 of 3

1. **Sign** the attached **Stipulation and Order** (Attachment 2);
2. **Pay** a settlement amount of **\$10,937.00**; and
3. **Return** all of the above to our office by the due date as specified in the Stipulation and Order.

Choosing this option and completing the above requirements will resolve the violations and penalties cited in the Administrative Enforcement Order.

OPTION 2

REQUEST A HEARING FOR THE STATED VIOLATIONS BY FILING A NOTICE OF DEFENSE

You may appeal the stated violations by completing the following:

1. Submit a written request for an appeal hearing postmarked within 15 days after receipt of the attached Administrative Enforcement Order (Attachment 1). This must be done by completing the attached **Notice of Defense** (Attachment 3) and include a statement of the reason(s) why you believe you should not be subject to these penalties.
2. Be available to participate in an appeal hearing before the Hearing Authority.

IMPORTANT NOTES

If an appeal is filed, the Settlement Offer of **\$10,937.00** as listed under Option 1 will be rescinded and the Department will seek the full Administrative Penalty of **\$43,750.00** as shown in the attached **Administrative Enforcement Order** (Attachment 1).

QUESTIONS

You are encouraged to meet with representatives of EMD to discuss your case prior to going before the Hearing Authority. Please contact Heather Tanner at (916) 875-8477 in order to schedule an appointment.

Sincerely,



Robert Duncan, Supervising Environmental Specialist IV
Environmental Compliance Division

RD:ht

Attachments: Administrative Enforcement Order (Attachment 1)
Stipulation and Order (Attachment 2)
Notice of Defense (Attachment 3)

County of Sacramento
 Environmental Management Department
 Environmental Compliance Division
 10590 Armstrong Ave., Suite A
 Mather, CA 95655
 Telephone: (916) 875-8550
 Facsimile: (916) 875-8513

In Re: VISIONS RECYCLING, INC. DBA) ADMINISTRATIVE
 VISIONS PAINT RECYCLING, INC.) ENFORCEMENT ORDER
 ATTN: JERRY NOEL)
 4481 KILZER AVENUE) [California Health and Safety
 MCCLELLAN, CA 95652) Section 25404.1.1]
) Case File No. 15-FA0018491

INTRODUCTION

1.1. Parties. The Sacramento County Environmental Management Department, Environmental Compliance Division ("EMD"), the Certified Unified Program Agency in the County of Sacramento, issues this Administrative Enforcement Order to VISIONS RECYCLING, INC. DBA VISIONS PAINT RECYCLING, INC. ("Respondent").

1.2. Site. Respondent maintains reportable quantities of hazardous materials and generates hazardous waste pursuant to Chapters 6.5 and 6.95 of the California Health and Safety Code (H&SC) at the following site: VISIONS PAINT RECYCLING, INC., 4481 Kilzer Avenue, McClellan, CA 95652.

1.3. Jurisdiction. H&SC Section 25404.1.1 authorizes EMD to order action necessary to correct violations and assess a penalty when EMD determines that any person has violated specified provisions of the H&SC or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

DETERMINATION OF VIOLATION AND PENALTIES

2.1. EMD conducted a Hazardous Materials Business Plan and Hazardous Waste inspection at Respondent's facility on January 23, 2015. This inspection occurred due to the facility receiving an Administrative Enforcement Order (Order) dated September 17, 2013. As a result of this Order the facility was placed in a More Frequent Inspection (MFI) status. During the inspection multiple violations were observed to be repeat Priority Corrective Action violations from the previous inspection dated May 17, 2013. A Notice to Comply (NTC) was issued on February 5, 2015 citing multiple repeat violations of the California Code of Regulations (CCR) and the H&SC. At this time all violations have been closed, however due to the recalcitrant and serious nature of some of the violations EMD has determined that enforcement action is warranted. As a result, EMD finds Respondent in violation of the following:

2.2. Failure to ensure incompatible materials are not stored together (a 55-gallon drum of aluminum sulfate solution (strong acid) observed stored on a pallet adjacent to 55-gallon drums of sodium hydroxide solution (strong caustic)) (19 CCR Section 2729.1). **Repeat Violation**

2.3. Failure to complete and submit hazardous material inventory information for all reportable hazardous materials and/or waste on site (19 CCR Section 2729.2(a)(2)). **Repeat Violation**

2.4. Failure to label hazardous waste accumulation containers with a fully completed hazardous waste label and failure to label or re-label any unlabeled,

ATTACHMENT 1

1 mislabeled, or not adequately labeled hazardous materials within 10 days of
2 discovery (22 CCR Sections 66262.34(f) and 66261.2(f)(1)). **Repeat Violation**

3
4 2.5. Failure to ensure all employees are thoroughly familiar with proper
5 waste handling and emergency procedures relevant to their responsibilities (22
6 CCR Section 66265.16). **Repeat Violation**

7
8 2.6. Failure to file an exception report with the California Department of
9 Toxic Substances Control (DTSC) when the destination facility failed to provide a
10 signed copy of the manifest within 35 days (22 CCR Section 66262.42).

11
12 2.7. Failure to dispose of hazardous waste within 90 days of the
13 accumulation start date (22 CCR Section 66262.34(a)). **Repeat Violation**

14
15 2.8. Failure to maintain aisle space to allow the unobstructed movement
16 of personnel, fire protection equipment, spill control equipment, and
17 decontamination equipment to any area of facility operation in an emergency (22
18 CCR Section 66265.35). **Repeat Violation**

19
20 2.9. For violations numbered 2.2 and 2.3, pursuant to H&SC Section
21 25515(b), Respondent is subject to an administrative penalty of up to \$5,000.00
22 per day per each violation.

23
24 2.10. For violations numbered 2.4 through 2.8, pursuant to H&SC Section
25 25189.2, Respondent is subject to an administrative penalty of up to \$25,000.00
26 per day per each violation.


ATTACHMENT 1

1 3.3. If Respondent requests a hearing, a hearing decision will be issued
2 by an Administrative Law Judge or by the Hearing Officer designated by EMD.
3 Pursuant to Government Code Section 11440.10 and Section 6.60.030 of the
4 Sacramento County Code, the decision of the Administrative Law Judge or
5 Hearing Officer will be accepted as final by EMD following the hearing.
6

7 3.4. If the Notice of Defense is not filed within the specified time limit, this
8 Administrative Enforcement Order shall become final.
9

10
11 Dated: April 22, 2015

County of Sacramento
Environmental Management Department

12
13
14
15 

16 Robert Duncan,
17 Supervising Environmental Specialist IV
18 Environmental Compliance Division

19 W:\Data\ENFORCEMENT\CUPA ENFORCEMENT\VISIONS PAINT\VISIONS ATTACHMENT 1 - ENFORCEMENT ORDER.doc
20
21
22
23
24
25
26
27
28

1 **County of Sacramento**
 2 **Environmental Management Department**
 3 **Environmental Compliance Division**
 4 **10590 Armstrong Ave., Suite A**
 5 **Mather, CA 95655**
 6 **Telephone: (916) 875-8550**
 7 **Facsimile: (916) 875-8513**

8 In Re: **VISIONS RECYCLING, INC. DBA**) **STIPULATION AND ORDER**
 9 **VISIONS PAINT RECYCLING, INC.**)
 10 **ATTN: JERRY NOEL**) **[California Health and Safety Code**
 11 **4481 KILZER AVENUE**) **Section 25404.1.1]**
 12 **MCCLELLAN, CA 95652**)
 13) **Case File No. 15-FA0018491**

14 1. The Sacramento County Environmental Management Department,
 15 Environmental Compliance Division ("EMD"), and **VISIONS RECYCLING, INC.**
 16 **DBA VISIONS PAINT RECYCLING, INC.** ("Respondent") enter into this
 17 Stipulation and Order as follows:

18 2.1. A dispute exists regarding the Administrative Enforcement Order
 19 issued by EMD on April 22, 2015, a copy of which is attached hereto as
 20 Attachment 1 and hereby incorporated by reference. This Administrative
 21 Enforcement Order found Respondent in violation of the following:

22 2.2. Failure to ensure incompatible materials are not stored together (a
 23 55-gallon drum of aluminum sulfate solution (strong acid) observed stored on a
 24 pallet adjacent to 55-gallon drums of sodium hydroxide solution (strong caustic))
 25 (19 California Code of Regulations (CCR) Section 2729.1). **Repeat Violation**
 26

1 2.3. Failure to complete and submit hazardous material inventory
2 information for all reportable hazardous materials and/or waste on site (19 CCR
3 Section 2729.2(a)(2)). **Repeat Violation**
4

5 2.4. Failure to label hazardous waste containers with a fully completed
6 hazardous waste label and failure to label or re-label any unlabeled, mislabeled,
7 or not adequately labeled hazardous materials within 10 days of discovery (22
8 CCR Sections 66262.34(f) and 66261.2(f)(1)). **Repeat Violation**
9

10 2.5. Failure to ensure all employees are thoroughly familiar with proper
11 waste handling and emergency procedures relevant to their responsibilities (22
12 CCR Section 66265.16). **Repeat Violation**
13

14 2.6. Failure to file an exception report with the California Department of
15 Toxic Substances Control (DTSC) when the destination facility failed to provide a
16 signed copy of the manifest within 35 days (22 CCR Section 66262.42).
17

18 2.7. Failure to dispose of hazardous waste within 90 days of the
19 accumulation start date (22 CCR Section 66262.34(a)). **Repeat Violation**
20

21 2.8. Failure to maintain aisle space to allow the unobstructed movement
22 of personnel, fire protection equipment, spill control equipment, and
23 decontamination equipment to any area of facility operation in an emergency (22
24 CCR Section 66265.35). **Repeat Violation**
25

26 3. Jurisdiction exists pursuant to California Health and Safety Code
27 (H&SC) Section 25404.1.1 et seq.
28

1 4. The parties wish to resolve this matter and to ensure prompt action
2 to achieve the Schedule of Compliance below.

3 5. Respondent waives any right to appeal and right to hearing in this
4 matter.
5

6 6. This Stipulation and Order shall constitute full settlement of the
7 violations alleged in paragraphs 2.2 through 2.8 so long as Respondent fully
8 complies with its terms. The execution of this Stipulation and Order does not
9 limit EMD from taking appropriate enforcement action for other or future
10 violations not addressed in the Administrative Enforcement Order.
11

12 7. By signing this Stipulation and Order, Respondent admits the
13 violations as stated in paragraphs 2.2 through 2.8 and agrees to comply with
14 H&SC Section 25404.1.1 and pay penalties as described below for the violations.
15
16

17 **SCHEDULE OF COMPLIANCE**
18

19
20 8.1. Respondent agrees to pay EMD a penalty of **\$10,937.00** no later
21 than **May 7, 2015** payable by cashier's check, credit card, or money order.
22 Respondent's payment shall be made payable to: County of Sacramento,
23 Environmental Management Department. Payment may be mailed or delivered
24 to: 10590 Armstrong Ave., Suite C, Mather, CA 95655. Time is of the essence.
25
26
27
28

8.3. In the event that Respondent fails to fully comply with paragraph 8.1, EMD retains the right to collect all penalties imposed in the Administrative Enforcement Order as well as the right to assess additional penalties.

9.1. Parties Bound: This Stipulation and Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon EMD and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Stipulation and Order.

9.2. **Representation:** The parties acknowledge that in the course of negotiating this Stipulation and Order that the parties have had an opportunity to consult with legal counsel.

9.3. Effective Date: The effective date of this Stipulation and Order shall be the date that it is signed by EMD.

ATTACHMENT 2

9.4. Integration: This Stipulation and Order constitutes the entire agreement between the parties concerning the matters contained herein and may not be amended, supplemented, or modified except by written agreement of both parties.

Signature of Authorized Representative

Title

Printed Name

Date

Dated: _____

County of Sacramento
Environmental Management Department

Robert Duncan,
Supervising Environmental Specialist IV
Environmental Compliance Division

W:\Data\ENFORCEMENT\CUPA ENFORCEMENT\VISIONS PAINT\VISIONS ATTACHMENT 2 - STIP AND ORDER.doc(file path)

For Administrative Use Only:

5604(BP) 50% 5605(UST) _____ 5613(WG) 50% 5616(CalARP) _____

NOTICE OF DEFENSE

**COUNTY OF SACRAMENTO
ENVIRONMENTAL MANAGEMENT DEPARTMENT
ENVIRONMENTAL COMPLIANCE DIVISION**

In Re: VISIONS RECYCLING, INC. DBA VISIONS PAINT RECYCLING, INC. ATTN: JERRY NOEL 4481 KILZER AVENUE MCCLELLAN, CA 95652) NOTICE OF DEFENSE)) [California Health and Safety Code) Section 25404.1.1(d)])) Case File No. 15-FA0018491
---	--

I, the undersigned Respondent, acknowledge receipt of the Administrative Enforcement Order (Enforcement Order) and Notice of Defense issued by the County of Sacramento Environmental Management Department, Environmental Compliance Division (EMD) dated April 22, 2015. I request a hearing to permit me to present my defense to the alleged violations contained in the Enforcement Order. I select the following as a Hearing Officer (check one):

- ☐ A Hearing Officer designated by the County.
- ☐ An Administrative Law Judge of the State Office of Administrative Hearings.

I have attached a written statement to this Notice of Defense providing the reason(s) why I believe I should not be subject to the penalties imposed in the Enforcement Order.

I understand that I will be notified of the hearing date by EMD once the case has been scheduled for review before the Hearing Officer selected above.

Signature of Respondent

Print Name

Date

Street Address

City, State, Zip

Phone #

AEO CHECKLIST

FACILITY INFORMATION	Facility Name:	Visions Paint Recycling, Inc.	Back Fees:	\$ -0-
	FA#:	18491	Initial Penalty	\$ 43,750
	Permit Issued:	n/a	Settlement Offer	\$ 10,937
	Last BP/Renewal	3/20/15		
LEGAL NAME VERIFICATION	Business Name In(County/City) Bus Lic. Database		FBN (Fictitious Business Name)	
	If Corp or Inc. check kepler.ss.ca.gov/list.html	Visions Recycling, Inc. 4481 Kilzer Avenue McClellan, CA 95652	Address of Agent for Service of Process	Jenifer Noel 6501 Tuscany Court Rio Linda, Ca 95673
	Owner Name (Sole Proprieter)		Company website address:	
HMP TRACKING	60-day Mail Out Date:	n/a	Event #	
	30-day Extension Mail Out Date:		Return Receipt Date:	
	30-day Due Date:		<input type="checkbox"/> Address Verification	<input type="checkbox"/> RQ's of HM/HW
	Initial Inspection Date:	1/23/15	Specialist:	Artz
	RTC Documents Due:	2/19/15	Date RTC Rec'd:	2/19/15
	<u>Class I Violations:</u>			
	All violations closed.			
	Inspection Date:		Specialist:	
	RTC Documents Due:		Date RTC Rec'd:	
	<u>Class I Violations:</u>			
	<u>Repeat Violations:</u>			
# OF DAYS IN VIOLATION	HMP	# of days	Other Violations:	# of Days:
	From: _____ to _____		From: _____ to _____	
COMMENTS	Previous AEO dated 9/17/13 due to history of non-compliance. Placed in MFI status Penalty = \$58,300 Settlement Offer = \$14,575 & RTC			
ATTACHMENTS	<input checked="" type="checkbox"/> Inspection Report	<input type="checkbox"/> Re- Inspection Report	<input checked="" type="checkbox"/> Photos	<input checked="" type="checkbox"/> HAPP Form
	Previous Enforcement: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> FTP Letter Date: _____	<input type="checkbox"/> FRC Letter Date: _____	<input type="checkbox"/> Accounting History

DAYS IN VIOLATION

Inspection Violations: 1-day

Date of Penalty Calculation: 4/3/15

ADMINISTRATIVE ENFORCEMENT ORDER

VISIONS PAINT RECYCLING, INC. FA#0018491

4481 Kilzer Avenue, McClellan, CA 95652

PENALTY CALCULATION MATRIX

#	Alleged Violation(s)	Initial Penalty	Multi Day?	Penalty x 2% (1) x (.02)	# of days (-1)	Multi-day penalty (2)x(3)	Total Penalty (1)+(4)	Adjusted?	New Total
		(1)	Y/N	(2)	(3)	(4)	(5)	Y/N	(6)
1	Q342, Incompatibles stored together – Repeat (Maj/Maj)	2,000	N	2,000			2,000		2,000
2	Q350 - Inventory incorrect in HMBP/change not reported w/in 30 days – Repeat (Mod/Min)	1,000	N	1,000			1,000		1,000
3	H114, Q387 - Failure to label with a completed HW label (HM & HW) – Repeat (Mod/Min)	4,000	N	4,000			4,000	N	4,000
4	Q356, Q375 - Hazcom Training (couldn't locate SDSs) (HM & HW) – Repeat (Mod/Mod)	10,500	N	10,500			10,500		10,500
5	Q372 - Failure to maintain signed copy of manifest (Min/Min)	1,000	N	1,000			1,000		1,000
6	Q388 - Accumulation past 90 days – Repeat (Maj/Min)	10,500	N	10,500			10,500		10,500
7	Q399 - No aisle space – Repeat (Min/Mod)	6,000	N	6,000			6,000		6,000
						TOTAL	35,000	Y +25%	43,750

ADMINISTRATIVE ENFORCEMENT ORDER

VISIONS PAINT RECYCLING, INC. FA#0018491
4481 Kilzer Avenue, McClellan, CA 95652

SETTLEMENT PENALTY OFFER

#	Alleged Violation(s)	Proposed Settlement Penalty (1)	Multi Day? Y/N	Penalty x 2% (1) x (.02) (2)	# of days (-1) (3)	Multi-day penalty (2)x(3) (4)	Total Penalty (1)+(4) (5)	Adjusted? Y/N	New Total (6)
1	Q342, Incompatibles stored together – Repeat (Maj/Maj)								
2	Q350 - Inventory incorrect in HMBP/change not reported w/in 30 days – Repeat (Mod/Min)								
3	H114, Q387 - Failure to label with a completed HW label (HM & HW) – Repeat (Mod/Min)								
4	Q356Hazcom Training (couldn't locate SDSs) (HM & HW) – Repeat (Mod/Mod)								
5	Failure to maintain signed copy of manifest (Min/Min)								
6	Accumulation past 90 days – Repeat (Maj/Min)								
7	No aisle space – Repeat (Min/Mod)								
						TOTAL			10,937

Re: Enforcement Order

#1) This is a moving target, VPR receives over 500,000 pounds of paint every month. We feel that we have put great effort and resources toward labeling containers and will continue to improve this process.

#2) The hiring of a full time EHS Manager will enable us to stay current on submitting HMP information.

#3) The fact that some "containers" were not labeled or missing accumulation start dates we are not debating. Much room for improvement was needed and has occurred. Comparing our two facilities it is evident that we have trained our staff and hold this statute to heart. We are debating the fact of this being a "repeat violation". During the 5/17/2015 inspection Specialist Arts stated, (HM114) "various unlabeled drums, totes, and tanks containing latex paint products were observed throughout the facility.... All hazardous materials containers(drums and totes) and tanks must be clearly labeled to identify the contents." VPR has submitted analytical testing results to Sac County EMD that supports the fact that latex paint is not hazardous. Hence, this is not a repeat violation.

#4) Ryan Artz was shown copies of 35 signed (10/22/2014) Hazard Communication Program-Employee Training Records. This is a representative of 100% of our workforce. As stated in Ryan's Notice to Comply, Visions does have one person at each of our locations who have completed the 24 HAZWOPER training (8/28/2014). The training on 10/22/14 was conducted by the two HAZWOPER employees and myself, Kevin Pargett. We have retrained all employees on our new revised training outline.

#5) The failure to submit an exception report to DTSC was not a repeat violation. We have explained to our vender that we will hold them to the fact that they shall provide us a signed copy of the manifest within the 35 day window they are granted (22 CCR Section 66262.42).

#6) There are now systems in place to assure that we ship the oldest of our oil-based paint first.

#7) VPR takes the safety of first responders and it's employees very seriously. We may on occasion stage shipments in front our shelving units. At a minimum, there is a means of egress to man-doors or roll-up doors.

Please take into consideration that the facility operated at Kilzer is no barn with a dirt floor. Rather, it was previously the self contained hazardous waste collection point for the Federally ran military base.

VPR is currently recycling over thirty-five California Counties latex paint. Our trucks pickup paint from more than a dozen retail collection centers. We received from Sac County HHW's alone 34,253 gallons, that's enough paint to cover over 171,000 sq ft. All told, Visions has taken in 672,380 gallons of latex paint for the calendar year of 2014. This paint 5 years ago would have ended up buried in a landfill or much worse disposed of in some illegal fashion.

Re: Enforcement Order

Paint was the single largest waste stream managed by local government HHW programs. In 2008 it cost California \$27 million to manage the nearly 2 million gallons of leftover paint that were disposed (according to CPSC's website). EMD's monetary slap is a direct hindrance to the progress of the Paint Stewardship program. Specialist Artz witnessed a single incident where the amount of debris that is disposed of in paint we received from HHW's. This debris is labor intensive and costly to deal with. Ryan was utterly astonished to learn of this. Ryan stated that he would lobby on behalf of Visions and help educate those working at the HHW's. This is the relationship we would like to establish with our CUPA. A relationship that is a working partnership of guidance, education and leadership, rather than one of enforcement.

Visions is a valued partner of PaintCare and the infrastructure currently in place. The post-consumer paint collected for reuse, recycling, energy recovery and safe disposal requires public awareness. This is where local governments would be an asset, versus hampering a vital partner in this young process. Please remember, when many businesses are leaving California, Visions is a Certified Small business proud to be nestled in beautiful Sacramento. VPR is committed to properly operating facilities that exceed those standards set forth in regulatory law for both environmental and worker safety. We implore that this board reconsider this harsh penalty.

Visions does not want to be associated with the More Frequent Inspection (MFI) status. In an effort to show good faith and total transparency we would like to have Ryan make regular visits to our facilities. We are the first of our kind in this industry and would embrace a partnership like the one implied above.